

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

To: <b>SMART &amp; BIGGAR</b> P.O. Box 2999 Station D OTTAWA, Ontario Canada, K1P 5Y6
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**PCT**

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY  
(PCT Rule 43bis.1)

Date of mailing (day/month/year)	08 March 2005 (08-03-2005)
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Applicant's or agent's file reference 77271-47	<b>FOR FURTHER ACTION</b> See paragraph 2 below	
International application No. PCT/CA2004/001935	International filing date (day/month/year) 04 November 2004 (04-11-2004)	Priority date (day/month/year) 04 November 2003 (04-11-2003)
International Patent Classification (IPC) or both national classification and IPC IPC[7]: E06B 3/54, 66, 663, 673; B29C 65/48, 54		
Applicant <b>BOWMEAD HOLDINGS INC. ET AL</b>		

1. This opinion contains indications relating to the following items :

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(I) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement.
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/CA <i>Canadian Intellectual Property Office</i> <i>Place du Portage I, C114 - 1st Floor, Box PCT</i> <i>50 Victoria Street</i> <i>Gatineau, Quebec K1A 0C9</i>  Facsimile No: 001(819)953-2476	Authorized officer  Bruce M. Brown (819) 997-2167
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Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language which it was filed, unless otherwise indicated under this item.  
 This opinion has been established on the basis of a translation from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material  
 a sequence listing  
 table(s) related to the sequence listing
  - b. format of material  
 in written format  
 in computer readable form
  - c. time of filing/furnishing  
 contained in the international application as filed.  
 filed together with the international application in computer readable form.  
 furnished subsequently to this Authority for the purposes of search.
3.  In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statement that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments :

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Box No. IV      Lack of unity of invention

1.  In response to the invitation (Form PCT/ISA/206) to pay additional fees the applicant has :  
 paid additional fees  
 paid additional fees under protest  
 not paid additional fees
2.  This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is  
 complied with  
 not complied with for the following reasons :

Claims 1 to 18, and 39 to 91 are directed to a framed panel unit and a method of forming the same wherein the unit comprises first and second spacers between a panel and first and second side walls.

Claims 19 to 38 are directed to a panel unit comprising a means of centering a panel unit within a channel.

Claims 92 to 94 are directed to a frame member comprising a sidewall having an elongated recess formed therein extending along a channel.

4. Consequently, this opinion has been established in respect of the following parts of the international application :

all parts  
 the parts relating to claim Nos. \_\_\_\_\_

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Box No. V      **Reasoned statement under Rule 43bis.1(a)(I) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Claims <u>1-18, 22, 29-32, 34-91, 93, 94</u>	YES
	Claims <u>19-21, 23-28, 33, 92</u>	NO
Inventive step (IS)	Claims <u>5-8, 10, 18, 35-55, 64, 67-73, 76-87, 93, 94</u>	YES
	Claims <u>1-4, 9, 11-17, 19 to 34, 56-63, 65, 66, 74, 75, 76-87, 93, 94</u>	NO
Industrial applicability (IA)	Claims <u>1-94</u>	YES
	Claims <u>None</u>	NO

2. Citations and explanations :

D1: EP 1,288,426 A2 (NIEMANN, H. D. et al.) 5 March 2003 (05.03.2003)

D2: CA 2 349 552 C (FIELD, S. et al.) 12 December 2002 (12.12.2002)

1. Claims 1-4, 9, 11-17, 19 to 34, 56-63, 65-66, 74, 75, 88-91 lack an inventive step under P.C.T. Article 33(3). Claims 1-4, 9, 11-17, 19 to 34, 56-63, 65-66, 74, 75, 88-91 differ from D1 in that the claimed framed panel unit has ends of frame members welded together and reactive sealant is received in a gap between the channel and the outside faces of the glass pane assembly. D1 teaches the use of an insert or spacer block to support and hold a glass pane assembly inside a window frame and includes an embodiment (fig. 2) of two short arms extending at right angles to the long arm. Flexible seals are provided on the frame to contact the outside faces of the glass panes. D1 does not teach the use of welds to join adjoining frame members nor the use of a reactive sealant, however, it is held that the use of welds to join adjoining frame members, and the use of a reactive sealant as opposed to flexible seals would be obvious to a person skilled in the art.

2. Claims 19-21, 23-28, and 33 lack novelty under P.C.T. Article 33(2) as being anticipated by D2. D2 shows a panel unit comprising a spacer between sheet members, a frame member having a channel formed therein, means of centering the panel unit with the channel, and a reactive thermoplastic sealant material bonding the sheets to the frame member. Claim 22 lacks an inventive step under P.C.T. Article 33(3). It is held that the use of a thermoplastic spacer as the only spacer spacing sheets apart would be obvious to a person skilled in the art.

3. Claim 92 lacks novelty under P.C.T. Article 33(2) as being anticipated by D1. D1 shows a frame member comprising first and second sidewalls defining a channel therebetween wherein one of the sidewalls has an elongated recess formed therein extending along a channel and positioned below the top of the sidewall. Further claim 92 lacks an inventive step under P.C.T. Article 33(3).

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**Box No. VIII    Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made :

Claim 1 does not comply with P.C.T. Article 6 because the phrase "where prior to welding together the ends of said frame members" infers but does explicitly state that the ends of the frame members are welded together.

Article 6.4 (c) requires that all dependent claims referring back to a single previous claim shall be grouped together in the most practical way possible. Claim 69 does not comply with this article since it refers to claim 70.

Rule 8.1 (d) (P.C.T.) requires that each main technical feature mentioned in the abstract and illustrated by a drawing shall be followed by a reference sign placed between parenthesis.

Rule 6.2 (b) states that the technical features mentioned in the claims shall preferably be followed by reference signs relating to such features.